



PATENT
Customer No. 22,852
New Attorney Docket No. 09095.0005-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

LINK et al.

Serial No.: 09/541,795

Filed: March 31, 2000

For: CELL ADHESION-INHIBITING
ANTIINFLAMMATORY AND
IMMUNE-SUPPRESSIVE
COMPOUNDS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION UNDER 37 C.F.R. § 1.131

I, Dugal S. Sickert, declare:

1. That I was employed by Abbott Laboratories ("Abbott") as a patent attorney from 9/21/98 to 7/20/01.
2. That this declaration is being submitted to establish the prior invention of the subject matter of U.S. Patent No. 6,110,922 ("the '922 patent") before December 29, 1998, the effective filing date of the '922 patent. A true and accurate copy of the '922 patent is attached as Ex. A.
3. That I was the attorney at Abbott responsible for preparing and having filed the application that issued as the '922 patent, and U.S. Provisional Patent

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Application No. 60/114,097 ("the '097 application"). A true and accurate copy of the '097 application is attached as Ex. B.

4. That I understand the '922 patent has been used as prior art under 35 U.S.C. § 102(e) against the claims of the above referenced application, Serial No. 09/541,795 ("the '795 application"). And, further, that the '795 application is a continuation-in-part of U.S. Patent Application No. 09/494,517 which claims priority to the '097 application.

5. That I have reviewed a copy of an e-mail dated December 16, 1998, that I sent to JoEllen Hogan and copied to Tom von Geldern with a draft patent application directed to "Cinnamide" attached. A true and accurate copy of that e-mail is attached as Ex. C.

6. That Tom von Geldern was one of the inventors of the draft application, as noted on the bottom of the e-mail. And, further that I informed JoEllen Hogan, Sr. Legal Secretary, in the e-mail that the draft application was "ready for filing" and that "[w]e would like to file a U.S. provisional application and a simultaneous regular U.S. application."

7. That it was the customary practice at Abbott to file identical non-provisional and provisional applications on the same day. That, after reviewing both the '922 patent and the '097 application, they appear to have the same or nearly identical specifications. And, further that they both were assigned the filing date of December 29, 1998 and have the same inventors, i.e., James Link, Gang Liu, Zhonghua Pei, Tom von Geldern, Martin Winn, and Zhili Xin.

9. That I have reviewed the '922 patent and the '097 application, both of which are directed to "Cinnamides," and I can confirm that the application leading to the '922 patent and the '097 application are the same applications referred to in my e-mail dated December 16, 1998.

10. That to the best of my knowledge and belief no further changes were made to the draft application referred to in my e-mail before it was filed as two separate applications on December 29, 1998.

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patents issuing thereon.

Dated: January 5, 2004

By:


Dugal S. SICKERT

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